

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION.

IN RE:

CINCH WIRELINE SERVICES, LLC,
DEBTOR.

CASE NO. 23-51742-CAG
CHAPTER 7 BANKRUPTCY

JOHN PATRICK LOWE, CHAPTER 7
TRUSTEE FOR CINCH WIRELINE
SERVICES, LLC,
PLAINTIFF.

vs.

ADV. NO. 24-05011-CAG

CINCH ENERGY SERVICES, LLC; CINCH
INVESTMENT HOLDINGS, LLC; CES
GROUP HOLDINGS, LLC; HOOK N BULL
PROPERTIES, LLC; LOS CABOS RANCH,
LLC; FTS RANCH, LLC; FTSJR
HOLDINGS, LLC; WFO HOMES, LLC;
TEXAS COAST BUILDERS, LLC; 17 MAIN,
LLC; GRANDER HOLDINGS, LLC; WFO,
LLC; PONDER RANCH, LLC; BL EQUITY
HOLDINGS, LLC; OCEAN FLOOR
HOLDINGS, LLC; FRANK THOMAS
SHUMATE; MARK LOPEZ; LORETTA L.
HIGGINS; TIMOTHY GAINES POLLARD;
JERRY MILLER AND SUCH OTHER YET
UNKNOWN DEFENDANTS ("JOHN DOE
DEFENDANTS"),
DEFENDANTS.

DEFENDANTS MARK LOPEZ AND LOS CABOS RANCH, LLC'S EXPEDITED
MOTION TO SELL THE REAL PROPERTY CONTROLLED BY LOS CABOS
RANCH, LLC.

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR
INTERESTS.

IF NO TIMELY RESPONSE IS FILED WITHIN 21 DAYS FROM THE DATE OF

SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE.

TO THE CHIEF UNITED STATES BANKRUPTCY JUDGE CRAIG A. GARGOTTA:

1. The adversary proceeding pending before this Bankruptcy Court is complicated, but this Motion is not.
2. John Patrick Lowe has been appointed as the Trustee in regard to Cinch Wireline Services, LLC¹.
3. Mark Lopez is the managing member of Los Cabos Ranch, LLC. None of the other Defendants in this adversary proceeding, and no other members of Cinch Energy Services, LLC or Cinch Wireline Services, LLC have a membership interest in Los Cabos Ranch, LLC².
4. Neither Mark Lopez nor Los Cabos Ranch, LLC (nor the limited liability company's members) are debtors in regard to the above-referenced bankruptcy. Both Mark Lopez and Los Cabos Ranch, LLC are named Defendants in regard to this adversary proceeding.
5. Mark Lopez has two avenues of involvement with Cinch Wireline Services, LLC, both of which are indirect.

¹ Currently, the Trustee is represented by attorneys Butch Boyd and Shelby A. Jordan. Recently, counsel for Defendant Frank T. Shumate filed a motion to Disqualify Butch Boyd Law Firm, P.C. and Jordan & Ortiz, P.C as special counsel for the Trustee. In regard to his duties, the Trustee filed an adversary complaint against a number of parties including Mark Lopez and Los Cabos Ranch, LLC. A recent motion was filed to disqualify the Trustee's attorneys. (BK Document # 141). The Bankruptcy Court has yet to rule on this motion to disqualify counsel. Nevertheless, whether special counsel remains. Should they be later disqualified, the adversary proceeding may still continue.

² Mark Lopez is the managing member of Los Cabos Ranch, LLC. The other two members of Los Cabos Ranch, LLC are Dolly Lopez and Stacy Tomas. Neither Dolly Lopez nor Stacy Tomas are parties in the above-stated bankruptcy or the above-stated adversary proceeding.

6. First, because of his prior employment with the company, Mark Lopez is a minority member of Cinch Energy Services, LLC. Cinch Energy Services, LLC (but not Mark Lopez directly) may own a minority interest in Cinch Wireline Services, LLC³.

7. Second, Mark Lopez worked for Cinch Energy Services LLC (but not Cinch Wireline Services, LLC) until December 2023⁴. Mark Lopez did not (and does not) work for Cinch Wireline Services, LLC.

8. Part of the funds to acquire the real property known as Los Cabos Ranch (“the ranch”) were obtained as part of Mark Lopez’ employment from Cinch Energy Services, LLC. The funds were not obtained from Cinch Wireline Services, LLC.

9. However, the Chapter 7 Trustee contends that Cinch Wireline Services, LLC (which is a debtor in bankruptcy) and Cinch Energy Services, LLC (which is not a debtor in bankruptcy) were part of the same enterprise, the funds from both entities were commingled, and other arguments.

10. As a former employee and minority member of Cinch Energy Services, LLC, Mr. Lopez described himself as the “sweat of the organization.” During his employment with Cinch Energy Services, LLC, Mr. Lopez concerned himself with bringing in business for Cinch Energy Services, LLC (but not Cinch Wireline Services, LLC), and working in the field to see that the jobs obtained by Cinch Energy Services, LLC were completed. He was not intimately involved in the business aspects of Cinch

³ The percent of ownership in Cinch Energy Services, LLC in Cinch Wireline, LLC is in dispute. Regardless, Mark Lopez is a minority member of Cinch Energy Services, LLC. Cinch Energy Services, LLC is/was controlled by Defendant Frank T. Shumate.

⁴ Neither Mark Lopez nor Los Cabos Ranch, LLC are presently employed by any party associated with the above-stated bankruptcy or adversary proceeding.

Energy Services, LLC apart from obtaining contracts for Cinch Energy Services, LLC's work and fulfilling those obligations.

11. The most substantial asset of Los Cabos Ranch, LLC is the ranch. Without the ranch, Los Cabos Ranch, LLC has no reason to continue its operations.

12. Without his job with Cinch Energy Services LLC, Mark Lopez cannot guarantee that Los Cabos Ranch, LLC can keep up the mortgage payments, taxes, insurance and other ongoing obligations of the ranch.

13. Therefore, Mark Lopez as the managing member, along with the other members of Los Cabos Ranch LLC, desires to sell the ranch.

14. If not for the sale of the ranch, the real property might be lost to foreclosure.

15. Los Cabos Ranch LLC has obtained a buyer for the ranch for the purchase price of three million dollars (\$3,000,000.00).

16. From this sales price, all mortgage liens, *ad valorem* taxes, realtor fees and closing costs need to be deducted and paid. It is anticipated that there will be funds remaining after closing. (The actual total amount will not be known until the time of closing).

17. It is proposed that the remaining sum (the equity in the ranch) will be made payable to and deposited in the IOLTA account of the Chapter 7 Trustee, John Patrick Lowe to be held in trust for Mark Lopez, Los Cabos Ranch, LLC and the bankruptcy estate pending either (1) a settlement between the parties based upon Court approval, or (2) the adversary proceeding is litigated before this Court.

18. Upon the placement of equity funds into the IOLTA account of Chapter 7 Trustee, John Patrick Lowe the parties (Mr. Lopez together with Los Cabos Ranch, LLC,

and the Trustee and his counsel), will begin the negotiations in good faith. If negotiations are successful, the settlement will be noticed pursuant to Fed. R. Bankr. P. 9019, and the compromise will need to be approved by the Court.

19. The sale of the ranch will eliminate the purpose of the existence of Los Cabos Ranch, LLC.

20. Presently, Michael Mendieta has a *Lis Pendens* as to the ranch. He claims to have purchased a roping arena, which is on the ranch. The roping arena is not part of the sale of the ranch. Trustee's counsel informs that Michael Mendieta will remove the *Lis Pendens* and take possession of the roping arena. The roping arena has no known value to the bankruptcy estate. Michael Mendieta will not be paid out of the sales proceeds of the ranch.

21. The Bankruptcy Court has issued a preliminary injunction, which affects Mark Lopez and Los Cabos Ranch, LLC, and the actions each has purportedly taken. (AP Docket #96). Therefore, Mark Lopez and Los Cabos Ranch, LLC request that the injunction be lifted or modified to allow for the sale of the ranch.

22. The issue concerning the ranch does not include a debt owed to the debtor. It concerns whether Mark Lopez and/or Los Cabos Ranch, LLC are in possession of property of the bankruptcy estate⁵.

23. The sale of the ranch requires the permission of the Bankruptcy Court.

24. Attached to and made a part of this Motion are the following:

a. The Resolution which allows Mark Lopez, as the managing member of Los Cabos Ranch, LLC, to sign the sales contract. This

⁵ Mark Lopez and Los Cabos Ranch, LLC deny that they are in possession of any property of the debtor's bankruptcy estate, but given this Bankruptcy Court's injunction both seek the authority of this Court to sell the ranch.

document contains the metes and bounds property description of the ranch. (Exhibit A).

- b. Agreement to Buy. (Exhibit B).
- c. The title report. (Exhibit C).

WHEREFORE, it is the prayer of Defendants Mark Lopez and Los Cabos Ranch, LLC that the Bankruptcy Court will order the sale of the ranch, as stated above, order the equity proceeds of the sale to be made payable to Chapter 7 Trustee, John Patrick Lowe for the limited purpose of holding the funds in trust for the benefit of Mark Lopez, Los Cabos Ranch, LLC and the bankruptcy estate, for the Trustee to place the funds in his IOLTA account, and lift any injunction as to the remaining implements contained on the ranch, including the roping arena of which Michael Mendietta has been asked to take possession.

Respectfully submitted,

NEWTONS.LAW

190 N. Millport Circle
The Woodlands TX 77382
Phone (281) 681-1170
Fax (281) 901-5631
Attorney for the Defendants,
Mark Lopez and Los Cabos Ranch LLC.



CHARLES (CHUCK) NEWTON
Texas Bar No. 14976250
chuck@newtons.law

CERTIFICATE OF CONFERENCE.

I certify that I have spoken to Butch Boyd and Shelby Jordan, special counsel for the Chapter 7 Trustee, Cinch Wireline Services, LLC and they have stated that they agree to the sale.



CHARLES (CHUCK) NEWTON

CERTIFICATE OF SERVICE.

I hereby certify on this 5th day of August, 2024 a true and correct copy of the foregoing Motion as filed by Mark Lopez and Los Cabos Ranch, LLC was served on the following parties *via* the Court's CM/ECF system or otherwise served *via* email on the following:

Brandon Craig Bickle
Gable & Gotwals, PC
110 N Elgin Ave, Suite 200
Tulsa, OK 74120
(918) 595-4800
(918) 595-4990 (fax)
bbickle@gablelaw.com

Assigned: 01/09/2024

Representing:

First International Bank & Trust
(Creditor)

Shawn K. Brady
Brady Law Firm, PLLC
6136 Frisco Square Blvd., Suite 400
Frisco, TX 75034-5891
469-287-5484
sgodwin@brady-law-firm.com

Assigned: 02/20/2024

Representing:

Ford Motor Credit Company
% Brady Law Firm
6136 Frisco Square Blvd., Suite 400
Frisco, TX 75034
469-287-5474
sgodwin@brady-law-firm.com

(Creditor)

Annmarie Antoniette Chiarello
Winstead PC
2728 N. Harwood Street
500 Winstead Building
Dallas, TX 75201
214-745-5410
713-650-2400 (fax)
achiarello@winstead.com

Assigned: 06/28/2024

Representing:

Simmons Bank
% Winstead PC
Attn: Annmarie Chiarello
500 Winstead Building
2728 North Harwood Street
Dallas, TX 75201
2147455410
achiarello@winstead.com

(Creditor)

Mitchell Clark
Law Offices of J. Mitchell Clark
3722 Nahid Court

Representing:

Justin Sprencel

Corpus Christi, TX 78418
361-887-8500
361-882-4500 (fax)
mitchell@txverdict.com

Assigned: 03/14/2024

4083 Emil Street
Robstown, TX 78380
3617715986
justin@dbatcorpuschristi.com

(Interested Party)

Laura Crabtree
Dore Rothberg Law, PC
16225 Park Ten Place Dr.
Suite 700
Houston, TX 77084
(281) 829-1555
(281) 200-0751 (fax)
lcrabtree@dorelaw.com

Assigned: 05/02/2024

Representing:

Hunting Titan, Inc.
(Creditor)

Carl Dore, Jr
Dore Law Group, PC
17171 Park Row, Suite 160
Houston, TX 77084
(281) 829-1555
(281) 200-0751 (fax)
carl@dorelawgroup.net

Assigned: 01/09/2024

Representing:

Hunting Titan, Inc.
(Creditor)

James W. King
Offerman and King, LLP
6420 Wellington Place
Beaumont, TX 77706
(409) 860-9000
(409) 860-9199 (fax)
jking@offermarking.com

Assigned: 02/14/2024

Representing:

National Tank & Equipment, LLC
% James W. King
6420 Wellington PI
Beaumont, TX 77706

(Creditor)

William B. Kingman
3511 Broadway
San Antonio, TX 78209
(210) 829-1199
bkingman@kingmanlaw.com

Representing:

Craig Smith
(Attorney)

Assigned: 05/28/2024

John Patrick Lowe
2402 East Main Street
Uvalde, TX 78801
830-407-5115
pat.lowe.law@gmail.com

(Trustee)

Assigned: 02/21/2024

John F Massouh
Sprouse Shrader Smith P.C.
P.O. Box 15008
Suite 500
Amarillo, TX 79101
806-468-3300
806-373-3454 (fax)
john.massouh@sprouselaw.com

Representing:

A-7 AUSTIN, LLC
c/o John Massouh
SPROUSE SHRADER SMITH
PO Box 15008
Amarillo, TX 79105

(Creditor)

Assigned: 01/09/2024

Mark C. Moore
Foley & Lardner LLP
2021 McKinney Avenue
Suite 1600
Dallas, TX 75201
214-999-4150
214-999-4667 (fax)
mmoore@foley.com

Representing:

Equify Financial, LLC
(Creditor)

Assigned: 07/18/2024

Christopher S. Murphy
Texas Attorney General's Office
PO Box 12548
Austin, TX 78711
512-475-4867
512-936-1409 (fax)
bk-cmurphy@oag.texas.gov

Representing:

**Texas Comptroller of Public Accounts,
Revenue Accounting Division**
Christopher S. Murphy
PO Box 12548
Austin, TX 78711-2548

Assigned: 01/08/2024

(Creditor)

Mary Rofaeil
Foley & Lardner LLP
2021 McKinney Avenue
Suite 1600
Dallas, TX 75201
817-412-8022
mary.rofaeil@foley.com

Assigned: 07/18/2024

Jameson Joseph Watts
Husch Blackwell LLP
111 Congress
Suite 1400
Austin, TX 78701
512-479-1179
512-479-1101 (fax)
jameson.watts@huschblackwell.com

Assigned: 05/27/2024
Assigned: 07/15/2024

James Samuel Wilkins
James S. Wilkins, PC
1100 NW Loop 410, Suite 700
San Antonio, TX 78213
(210) 271-9212
jwilkins@stic.net

Assigned: 12/13/2023

Karen Lassmann
Capital Title
102 N. Main
Victoria TX 77901
(361) 573-5268
klassmann@ctot.com

Representing:
Equify Financial, LLC
(Creditor)

Representing:
**Frank Thomas Shumate, and
Cinch Energy Services, LLC**
(Interested Parties)

Representing:
Cinch Wireline Services, LLC
146 Motts Parkway
Marion, TX 78124
(Debtor)

Escrow Assistant for sale of ranch



CHARLES (CHUCK) NEWTON